

**NOTE:** Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

## **~ 1<sup>ST</sup> DRAFT ~**

### **Meeting Summary Motor Vehicle Dealer Board Monday, May 10, 2008**

Chairman D. B. Smit called the Dealer Board meeting to order at 11:17 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 14 Board members present. Present were members Lynn Hooper, Todd Hyman, Henry Jones, Wanda Lewark, Chip Lindsay, Hugh McCreight, Thomas Moorehead, Pat Patrick, Frank Pohanka, Kevin Reilly, Vince Sheehy, Larry Shelor, and Tommy Woodson. (Absent: Jonathan Blank, Todd Haymore, David Lacy, Jimmy Whitten and Robert Woodall). Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

D. B. Smit announced that Todd Hyman is retiring and this would be his last Board meeting. He and the Committee congratulated him for his dedicated service.

#### **PUBLIC COMMENT**

The March 10 2008 meeting summary was approved.

- **Consumer Cash Reward Program.** Nancy and Bill Butler and LouAnne and Noel Woolard spoke on how they purchased vehicles under the Consumer Cash Reward Program. The Program was integrated into the sales process of the vehicle and the rebate agreement was through a third party. The consumer signed documents that stated that the dealer was not responsible for their rebate and consumers who participated in the program were required to send the third party specific information soon after the sale and again 39 months after the sale. Missing or wrong documents or not mailing items within the required time window disqualified claims. Nancy and Bill Butler purchased a vehicle that qualified them for a \$10,000 rebate. They followed the instructions that were required of them and unfortunately they never received their rebate. Lou Ellen and Norman Woolard purchased a vehicle and were told they qualified for a \$7,000 rebate and they too, followed the directions as well and they only received \$1,143.35. General discussion followed. The executive director was asked to conduct further research and report back to the Board in July with a recommendation.

## STATUTORY COMMITTEE REPORTS

### Dealer Practices Committee:

Chairman Hugh McCreight summarized discussions held and actions that were taken during the Committee Meeting.

- **Keith H. Fontaine & Timeless Auto Sales & Service.** Chairman Hugh McCreight summarized for the board the discussion held in the committee meeting regarding Keith H. Fontaine and Timeless Auto Sales and Service. Based on that discussion, Mr. McCreight made the following motion: Be it resolved that in accordance with the authority given to the Board to modify the minimum hours requirements as set-out in § 46.2-1533, that Keith H. Fontaine & Timeless Auto Sales & Service (dealer # 6946) be granted a variance from the requirement of being opened for business at least 10 hours per week between the hours of 9:00 am and 5:00 pm, Monday through Friday provided that the dealership be open from 5:00 to 9:00 pm Monday through Friday and 10:00 am to 6:00 pm on Saturday. This variance shall be in effect through June 30, 2009.

Pat Patrick seconded. The motion carried unanimously.

- **William W. Hoback and Pulaski Auto Sales.** Chairman Hugh McCreight summarized for the board the discussion held in the Committee meeting regarding William W. Hoback and Pulaski Auto Sales. Based on that discussion, Mr. McCreight made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning William W. Hoback and Pulaski Auto Sales for alleged violations of Va. Code Sections 46.2-1515 (failure to display dealer certificate); 46.2-1518 (failure to display salesperson list); 46.2-1529 (record keeping); 46.2-1529(1) and 46.2-1530 (related to the buyers order); 46.2-1532 (not completing odometer record); 46.2-1533 (failure to maintain posted business hours); 46.2-1542 (improper issuance of 30 day tags); 46.2-1537 (failure to have salesperson properly employed); and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning from the Board willful failure to comply with the dealer laws). Based on due consideration, the Board believes a civil penalty should be assessed against William W. Hoback and Pulaski Auto Sales. The Board hereby assesses a \$2,000 civil penalty against Mr. William W. Hoback and Pulaski Auto Sales; and based on due consideration, the Board believes that all licenses issued by the Board to Mr. William W. Hoback should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. William W. Hoback.

Lynn Hooper seconded. The motion carried unanimously.

- **James T. Turner and J & J Sales.** Chairman Hugh McCreight summarized for the board the discussion held in the Committee meeting regarding James T. Turner and J & J Sales. Based on that discussion, Mr. McCreight made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning James

T. Turner t/a J & J Sales for alleged violations of Va. Code 46.2-1510 (failure to have an established place of business); 46.2-1515 (failure to display dealer certificate); 46.2-1529 (related to record keeping); 46.2-1537 (failure to have salesperson properly licensed); 46.2-1546 and 46.2-1550 (related to issuance and use of dealer's license plates). Based on due consideration, the Board believes a civil penalty should be assessed against James T. Turner and J & J Sales. The Board hereby assesses a \$200 civil penalty against James T. Turner and J & J Sales; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. James T. Turner in running his dealership. The Board mandates that Mr. James T. Turner successfully complete the dealer-operator course by November 12, 2008. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. James T. Turner by the Board until what time Mr. James T. Turner has successfully completed the course.

Frank Pohanka seconded. The motion carried unanimously.

- **Douglas E. Aust and Aust Enterprises.** Chairman Hugh McCreight summarized for the board the discussion held in the Committee meeting regarding Douglas E. Aust and Aust Enterprises. Based on that discussion, Mr. McCreight made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Douglas E. Aust and Aust Enterprises for alleged violations of Va. Code Sections 46.2-1510 (failure to have an established place of business); 46.2-1518 (failure to display salesperson list); 46.2-1529 (record keeping), 46.2-1529(1) and 46.2-1530 (related to the buyers order); 46.2-1532 (not completing odometer record); 46.2-1533 (failure to maintain posted business hours); 46.2-1537 (failure to have salespersons properly licensed) and 46.2-1548/1550 (use of dealer's license plates). Based on due consideration, the Board believes a civil penalty should be assessed against Douglas E. Aust and Aust Enterprises. The Board hereby assesses a \$1,000 civil penalty against Douglas E. Aust and Aust Enterprises; and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Douglas E. Aust should be suspended; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Douglas E. Aust in running his dealership. The Board hereby suspends all licenses and certificates issued by the Board to Mr. Douglas E. Aust for a minimum of 30 days or until what time Mr. Douglas E. Aust successfully completes the dealer-operator class, which ever is longer.

Thomas Woodson seconded. The motion carried unanimously.

- **Nelson L. & John R. Stith and Car Express.** Chairman Hugh McCreight summarized for the board the discussion held in the Committee meeting regarding Nelson L. & John R. Stith and Car Express. Based on that discussion, Mr. McCreight made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Misters Nelson L. & John R. Stith and Car Express for alleged violations of Va. Code Sections 46.2-1533 (failure to maintain posted business hours and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning/willful failure

to comply with the dealer laws). Based on due consideration, the Board believes a civil penalty should be assessed against Misters Nelson L. & John R. Stith and Car Express. The Board hereby assesses a \$500 civil penalty against Misters Nelson L. & John R. Stith and Car Express; and based on due consideration, the Board believes that all licenses issued by the Board to Misters Nelson L. & John R. Stith should be suspended; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Misters Nelson L. & John R. Stith in running their dealership. The Board hereby suspends all licenses and certificates issued by the Board to Misters Nelson L. & John R. Stith for a minimum of 30 days or until what time Misters Nelson L. & John R. Stith have successfully completed the dealer-operator class, which ever is longer.

Frank Pohanka seconded. The motion carried unanimously.

### **Licensing Committee**

Chairman Chip Lindsay summarized discussions held and actions that were taken during the Committee Meeting.

- **Colin R. MacKenzie, Salesperson License.** Chairman Chip Lindsay summarized for the Board the discussion held in the Committee meeting regarding Colin R. MacKenzie. Based on that discussion, Mr. Lindsay made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Colin R. MacKenzie and based on due consideration, the Board believes that Mr. MacKenzie's application for a motor vehicle salesperson's license should be approved. The Board hereby approves the issuance of a salesperson's license to Mr. Colin R. MacKenzie and that Mr. MacKenzie must provide evidence to the Motor Vehicle Dealer Board every two months beginning July 1, 2008, that he is paying restitution to Second Bank and Trust. Failure to provide the required evidence by the first day of every other month beginning on July 1, 2008 will result in the immediate suspension of Mr. MacKenzie's license until what time the required evidence is provided.

Frank Pohanka seconded. The motion carried unanimously.

- **Johnnie L. Mayo, Salesperson License.** Chairman Chip Lindsay summarized for the Board the discussion held in the Committee meeting regarding Johnnie L. Mayo. Based on that discussion, Mr. Lindsay made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, denied the application for a salesperson's license submitted by Mr. Johnnie L. Mayo. Mr. Mayo appealed the denial and requested a formal hearing. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Johnnie L. Mayo and based on due consideration, the Board believes that Mr. Mayo's motor vehicle salesperson's license should be approved. The Board hereby approves the application for a salespersons license submitted by Mr. Johnnie L. Mayo.

Frank Pohanka seconded. The motion carried unanimously.

### **Advertising Committee**

Chairman Lynn Hooper summarized discussions that were held during the Committee Meeting.

### **Transaction Recovery Fund Committee:**

Chairman Larry Shelor summarized discussions held and actions that were taken during the Committee Meeting.

- **Revisit Claim: Hollywood Wholesale, Inc. c/o Roger Altland v. Stanley C. Freeman.** Chairman Larry Shelor summarized for the Board the discussion held in Committee meeting regarding Hollywood Wholesale Inc. c/o Roger Altland v. Stanley C. Freeman. Based on that discussion and recommendation in the case, a motion was made by Chip Lindsay to pay the \$20,000 claim. Lynn Hooper seconded. All in favor: 9 (Hooper, Hyman, Lewark, Lindsay, McCreight, Jones, Moorehead, Pohanka, Shelor). Opposed: 4 (Reilly, Sheehy, Woodson, Smit). The motion carried.
- **Renee Loeb v. Field Auto City, Inc. and Theodore C. Collins v. City Motor Company, Inc.** Chairman Larry Shelor summarized for the Board the discussion held in the Committee meeting regarding Renee Loeb v. Field Auto City, Inc. and Theodore C. Collins v. City Motor Company, Inc. Based on that discussion and the recommendations in the case, Mr. Shelor made the following motions: Pursuant to §46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund ("Fund"), the Board has reviewed and considered claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

|   |             |
|---|-------------|
| Renee Loeb v. Field Auto City, Inc.             | \$7,450.58  |
| Theodore C. Collins v. City Motor Company, Inc. | \$15,059.99 |

Frank Pohanka seconded. The motion carried unanimously.

### **OLD BUSINESS**

### **OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

## **NEW BUSINESS**

- **Executive Director's Report.** Bruce Gould indicated that the State updated their personnel manual regarding Military leave back in 2003 and, unfortunately, the Dealer Board's manual was not. He then requested that the Committee approve the Dealer Board's personnel manual be updated to match the State's personnel manual regarding Military leave. Vince Sheehy made a motion to update the Dealer Board personnel to reflect the same policy the State has regarding Military leave. Hugh McCreight seconded. The motion carried unanimously.

The next meeting will be scheduled for July 14, 2008.

## **NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

There being no further business to come before the Motor Vehicle Dealer Board, Vice-Chairman Pohanka adjourned the meeting at 12:22 p.m.

## Meeting Summary Dealer Practices Committee Monday, May 12, 2008

Chairman Hugh McCreight called the Dealer Practices Committee meeting to order at 8:39 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Jonathan Blank, Larry Shelor, Wanda Lewark, Chip Lindsay, Thomas Moorehead, Kevin Reilly, Vince Sheehy and Thomas Woodson. (Absent: David Lacy and Robert Woodall). Other board members present: D.B. Smit, Todd Hyman, Frank Pohanka, Pat Patrick, Henry Jones and Lynn Hooper. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Eric Fiske was present from the Attorney General's Office.

The March 10, 2008 meeting summary was approved.

### **PUBLIC COMMENT**

There was no public comment.

### **OLD BUSINESS**

**Update: March Actions.** Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on March 10, 2008.

### **OLD BUSINESS FROM THE FLOOR**

- **Keith H. Fontaine & Timeless Auto Sales & Service.** Bruce Gould indicated that Mr. Fontaine requested a variance in hours like he has in the past. Mr. Fontaine has a good standing with the Board. Motion was made by Jonathan Blank to allow Mr. Fontaine's request for a variance in hours. Thomas Woodson seconded. The motion carried unanimously.

### **NEW BUSINESS**

#### **Review and Action: Informal Fact-Finding Conference:**

- **William W. Hoback and Pulaski Auto Sales.** On January 30, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1515 (failure to display current dealer certificate), 46.2-1518 (failure to display salesperson list), 46.2-1529 (not having the required records, failure to keep records, failure to keep record of temporary tag issuance, etc), 46.2-1529(1) (not completing required buyers order), 46.2-1530 (not completing buyers order), 46.2-1532 (not completing odometer record), 46.2-1533 (failure to maintain posted business hours), 46.2-1542 (improper issuance of 30 day tags), 46.2-1537 (failure to have salesperson on W-32, even after being verbally warned about this violation) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning from the Board or any willful failure to comply with the Dealer laws). Based on the information provided at the conference, the hearing officer recommended that all licenses issued by the Board to William W. Hoback be revoked and that a total civil penalty of \$2,000 be assessed.

Motion was made by Vince Sheehy to accept the hearing officer's recommendation. Thomas Moorehead seconded. The motion carried unanimously.

- **James T. Turner and J & J Sales.** On February 6, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1510 ( failure to have an established place of business), 46.2-1515 (failure to display current dealer certificate), 46.2-1529 (not having the required records, failure to keep records, failure to keep record of temporary tag issuance, etc), 46.2-1537 (failure to have salesperson on W-32, even after being verbally warned about this violation), 46.2-1546 (registration of dealers; fees) and 46.2-1550 (use of dealer's license plates, generally). Based on the information provided at the conference, the hearing officer recommended that a civil penalty of \$200 be assessed against J & J Sales, for Mr. Turner to successfully complete the dealer-operator course and inspections of J & J Sales should be conducted to confirm that the dealership is in compliance with the Board requirements.

Motion was made by Thomas Woodson to accept the hearing officer's recommendation. Thomas Moorehead seconded. The motion carried unanimously.

- **Douglas E. Aust and Aust Enterprises.** On April 16, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1510 ( failure to have an established place of business), 46.2-1518 (failure to display salesperson list), 46.2-1529 (not having the required records, failure to keep records, failure to keep record of temporary tag issuance, etc), 46.2-1529(1) (not completing required buyers order), 46.2-1530 (not completing buyers order), 46.2-1530 (not completing buyers order), 46.2-1532 (not completing odometer record), 46.2-1533 (failure to maintain posted business hours), 46.2-1537 (no record of W-2 or 1099) and 46.2-1548/1550 (use of dealer's license plates, generally). Based on the information provided at the conference, the hearing officer recommended that Mr. Aust and Aust Enterprises be assessed a civil penalty of \$500 and continue to work with staff to resolve issues noted in the reports.

Motion was made by Kevin Reilly to assess a civil penalty of \$1,000, suspend all licenses for a minimum of 30 days or until the dealership is in compliance and Mr. Aust successfully complete the dealer-operator course, whichever is long. The committee believed this penalty was necessary because of the severity of the violations. Jonathan Blank seconded.

Substitute motion was made by Vince Sheehy to revoke Mr. Aust's licenses. Thomas Moorehead seconded. After much discussion, Vince withdrew his motion and agreed to go back to Kevin's original motion.

After further discussion, Kevin Reilly's original motion was made. Vince Sheehy seconded. The motion carried unanimously.

- **Mr. Nelson L. & John R. Stith and Car Express.** On February 6, 2008, an informal fact-finding conference was conducted to address the alleged violations of 46.2-1533 (failure to maintain posted business hours and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning from the Board or any willful failure to comply with the Dealer laws). Based on the information provided at the conference, the hearing officer recommended that the Board's assessed civil penalty of \$500 be reduced to \$200, that Mr. John Stith be required to successfully complete the dealer-operator course and inspections should be conducted to confirm that the dealership is in compliance with Board requirements.



Motion was made by Wanda Lewark to accept the hearing officer's recommendation and for Nelson Stith to take the dealer-operator course as well and all within a maximum of 90 days. No second.

Substitute motion was made by Jonathan Blank to assess a civil penalty of \$500 and have both Nelson and John take the dealer-operator course within 30 days. Tommy Woodson seconded. The motion carried unanimously.

#### **NEW BUSINESS FROM THE FLOOR**

The next meeting was scheduled for July 14, 2008.

The meeting adjourned at 9:24 a.m.

**Meeting Summary**  
**Dealer Licensing Committee**  
**Monday, May 12, 2008**

Chairman Chip Lindsay called the Dealer Licensing Committee meeting to order at 9:26 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Lynn Hooper, Henry Jones, Frank Pohanka, Hugh McCreight, Pat Patrick and Todd Hyman. (Absent: Robert Woodall and Jimmy Whitten) Other Board members present: D. B. Smit, Vince Sheehy, Thomas Moorehead, Wanda Lewark, Thomas Woodson, Kevin Reilly and Larry Shelor. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The March 10, 2008 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

**Update: March Actions.** Peggy Bailey reported on the actions taken at the Dealer Licensing Committee meeting on March 10, 2008.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conference:**

- **Colin R. MacKenzie, Salesperson.** On February 27, 2008, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section 46.2-1575(13) (provides authority for the Motor Vehicle Dealer Board to deny an application for a motor vehicle salesperson's license for having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended that his application be approved, should he choose to apply again.

Mr. MacKenzie was present and spoke on his own behalf.

Motion was made by Pat Patrick to accept the hearing officer's recommendation, but will get his license once he makes full restitution. No second.

Substitute motion made by Henry Jones to accept hearing officer's recommendation and conditionally grant the license and to review a receipt of restitution payments every two months. Failure to do so will result in an automatic suspension. Frank Pohanka seconded. All in favor: 6 (Lindsay, Hooper, Jones, Pohanka, McCreight, Hyman). Opposed: 1 (Patrick). The motion carried.

**Review and Action: Formal Hearing:**

- **Johnnie L. Mayo, Salesperson.** On April 16, 2008, a formal hearing was conducted to address the alleged violations of VA Code Section 46.2-1575(13) (provides authority for the Motor Vehicle Dealer Board to deny an application for a motor vehicle salesperson's license for having been convicted of a felony). Based on the information provided at the hearing, the hearing officer recommended to support the Board's decision and to deny Mr. Mayo's application for a salesperson's license.

Mr. Mayo was present and spoke on his own behalf.

Motion was made by Todd Hyman to reject the hearing officer's recommendation and allow Mr. Mayo to obtain his license. Rational is that Mr. Mayo's fellow co workers sent in a letter of recommendation and spoke very highly of Mr. Mayo. Mr. Mayo himself indicated what he was going through to get his life back on track. Hugh McCreight seconded. The motion carried unanimously.

#### **NEW BUSINESS FROM THE FLOOR**

The next meeting was scheduled for July 14, 2008

The meeting adjourned at 10:16 a.m.

**Meeting Summary**  
**Advertising Committee**  
**Monday, May 12, 2008**

Chairman Lynn Hooper called the Advertising Committee meeting to order at 10:14 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Larry Shelor, Kevin Reilly, Thomas Woodson, Vince Sheehy and Todd Hyman (Absent: Todd Haymore, Jonathan Blank and Jimmy Whitten). Other Board members present: D. B. Smit, Pat Patrick, Thomas Moorehead, Hugh McCreight, Frank Pohanka, Wanda Lewark, Chip Lindsay and Henry Jones. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The March 10, 2008 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

The next meeting was scheduled for July 14, 2008.

**NEW BUSINESS FROM THE FLOOR**

- **Update: Tracking Advertising.** Bruce Gould indicated that a part time employee reviews newspapers that are rotated statewide on a regular basis. Staff reviews advertising on websites. Dealers are also a good means of monitoring advertising as well. According to a report Bruce ran from February 1 to April 30, he indicated that staff continue to see the same types of advertising problems, which consist of Truth in Lending, No sale end date, can't say "free", which has been a problem since the beginning of the Dealer Board. Bruce indicated that advertising reports will be a part of the Board book so that the members will be able to see the monitoring process by the staff.

The meeting adjourned at 10:32 a.m.

**Meeting Summary**  
**Transaction Recovery Fund Committee**  
**Monday, May 12, 2008**

Chairman Larry Shelor called the Transaction Recovery Fund Committee meeting to order at 10:33 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Henry Jones, Todd Hyman, Wanda Lewark, Pat Patrick and Frank Pohanka. (Absent: Todd Haymore, Jonathan Blank and David Lacy). Other Board members present: Vince Sheehy, Thomas Moorehead, D.B. Smit, Chip Lindsay, Lynn Hooper, Kevin Reilly and Thomas Woodson. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The March 10, 2008 summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- \* Tabled From March Meeting - Revisit Claim For Approval of Payment:  
- *Hollywood Wholesale, Inc. c/o Roger Altland v. Stanley C. Freeman*

John Ryan was present on behalf of Hollywood Wholesale. Mr. Ryan attempted to have the committee reconsider payment of Hollywood's claim that was denied from the March Committee and Full Board meeting.

No action was taken at this time.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conference Results:**

- **Renee Loebs and Field Auto City, Inc.** On July 3, 2004, Ms. Loebs purchased a 2002 Mercury Mountaineer from Field Auto City, Inc. for a total delivery price \$24,179.95. Ms. Loebs made a down payment of \$1,000 and financed the remaining balance with Triad Financial Corporation. She also had a trade-in and was given an allowance for the trade-in (1998 Jeep Cherokee) in the amount of \$7,400.00. In which, Field Auto indicated they would pay off her loan to Triad on the Jeep. Ms. Loebs took possession of the 2002 Mercury Mountaineer and later she discovered from Triad that Field Auto City never paid off her loan for the balance owed on the 1998 Jeep. By the time Ms. Loebs realized what had happened, Field Auto had vacated the premises and Triad had filed a civil action against her for the loan balance owed on the Jeep.

On September 6, 2006, the Alexandria General District Court awarded Ms. Loeb's Judgment for Breach of Contract & Fraud against Field Auto City, Inc. in the amount of \$15,000.00 with interest and \$43.00 in costs. On May 9, 2007, Ms. Loeb's submitted to the Dealer Board a Judgment Claim Request Form and a copy of an Abstract of the Judgment she had obtained from the Alexandria District Court. On May 10, 2007, the Dealer Board acknowledged receipt of her claim and requested additional information in order to complete the review process. On May 21, 2007, the Dealer Board staff received an authentic and certified copy of the Warrant in Debt and upon reviewing the Warrant in Debt, the Dealer Board staff noticed that Renee Loeb's had legal counsel, Mr. Mark C. Locke, Esquire. On May 22, 2007, the Dealer Board staff sent a letter to Ms. Loeb's counsel acknowledging his client's claim and requested additional information for the review process. On September 26, 2007, Ms. Loeb's contacted the Dealer Board staff to inquire on the status of her claim. Staff and the Executive Director explained the process to Ms. Loeb's; however, she felt that her judgment was all the documentation that was needed. Ms. Loeb's finally agreed she would submit an affidavit of facts. On February 7, 2008, Ms. Loeb's contacted the Dealer Board staff again to inquire about the status of her claim. Staff advised Ms. Loeb's that the required documents have not been received. She agreed that she would resubmit the requested documentation.

After carefully reviewing all the documentation, the total amount of Ms. Loeb's judgment was \$15,000.00 (\$7,407.58 breach of contract plus \$7,592.42 punitive damages) plus \$43.00 in costs. Her claim does meet the criteria for payment from the Fund, however, in terminating the amounts of Ms. Loeb's claim, excluded from the amount to be paid is the punitive damages. Therefore, staff recommended that the Recovery Fund Committee and Board approve \$7,450.58 on Ms. Loeb's' claim. On April 8, 2008, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that Ms. Loeb's receive the total amount of \$7,450.58 as recommended by the Dealer Board staff.

Motion was made by Frank Pohanka to accept the hearing officer's recommendation. Pat Patrick seconded. The motion carried unanimously.

- **Theodore C. Collins and City Motor Company, Inc.** On October 13, 2006, after receiving approval for a loan from Peoples Advantage Federal Credit Union, with check in hand, Mr. Collins purchased a 2000 Pontiac Trans-Am for the total purchase price of \$15,730.95. By November 11, 2006, the temporary tags expired, Mr. Collins called City Motor and inquired on his tags and title. Kim Glidden, salesperson, indicated she had contacted DMV and obtained approval to issue a second set of temporary tags. On December 12, 2006, Mr. Collins second set of temporary tags expired. He called Kim and she told him to come into the dealership. Upon his arrival, they gave him an ID tag (683) and a 5-day registration for the tag. Kim continued to issue Mr. Collins Permission to use the Dealer's License Plate (683) through January 5, 2007.

In February of 2007, Mr. Collins received a call from Shane Russell. Mr. Russell informed Mr. Collins that he and his father, Johnny Russell owned the 2000 Pontiac Trans-Am and had placed the vehicle on consignment with City Motor Company and that they had never received payment. Mr. Collins informed Mr. Russell that he gave City Motor over \$15,000.00 for the vehicle. Shane somewhat surprised, then indicated that City Motor Company said they never received a check from the finance company. Mr. Collins tried reaching the dealership by phone and attempted to go by the dealership, only to find them closed and all the vehicles were gone. He called his credit union to explain what had happened. In April of 2007, a friend of Mr. Collins called him and informed him of where the dealership had moved to and provided

him with a phone number he obtained from a bill board advertisement. In call the dealership, Mr. Collins was able to talk to the owner, Mr. Robert Wright. When Mr. Collins inquired about his tags, Mr. Wright that he ad spoken with Mr. Russell and it would be a few more days and that he could come by and obtain another registration for the ID tag (683).

On April 2, 2007, when Mr. Collins arrived home, he received a registration and license plates in his name for the vehicle. On August 27, 2007, Mr. Russell called Mr. Collins and indicated he still had not been paid and was to the point of taking legal actions and wanted the return of his vehicle. On September 15, 2007, Mr. Russell took possession of his vehicle. On September 21, 2007, Mr. Collins filed a Warrant in Debt against city Motor Company, Inc. in the amount of \$14,999.99 for not providing title in connection with the purchase.

On December 20, 2007, the Petersburg General District Court awarded judgment in favor of Theodore Collins against City Motor Company, Inc in the amount of \$14,999.99 with 6% interest from date of judgment until paid in full. On January 16, 2008, Mr. Collins faxed to the Dealer Board all required documents in order to file a claim against the Transaction Recovery Fund. After carefully reviewing all the documentation, the total amount of Mr. Collins judgment of \$14,999.99 plus \$60.00 in costs, it is requested that the Recovery Fund Committee and Full Board approve Mr. Collins claim in the amount of \$15,059.99 (\$14,999.99 plus \$60.00 in costs). On April 22, 2008, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that Mr. Collins receive the total amount of \$15,059.99 as recommended by the Board staff.

Motion was made by Pat Patrick to accept the hearing officer's recommendation. Frank Pohanka seconded. The motion carried unanimously.

#### **NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The next meeting was scheduled for July 14, 2008.

The meeting adjourned at 11:08 a.m.